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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,005	12/21/2001	William R. Matz	01442	5691
38516 7590 01/02/2008 SCOTT P. ZIMMERMAN, PLLC PO BOX 3822 CARY, NC 27519			EXAMINER VAN HANDEL, MICHAEL P	
			ART UNIT 2623	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/037,005	<b>Applicant(s)</b> MATZ ET AL.	
	<b>Examiner</b> Michael Van Handel	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 31-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28, 31-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/05/2007 has been entered.

### ***Response to Amendment***

1. This action is responsive to an Amendment filed 10/05/2007. Claims **1-28, 31-37** are pending. Claims **1-3, 5-13, 15-28, 31-37** are amended. Claims **29, 30, 38-50** are canceled. The examiner hereby withdraws the rejection to the claim of priority in light of the amendment. The examiner hereby further withdraws the objection to the disclosure in light applicant's arguments. The examiner hereby still further withdraws the rejection of claims **49 and 50** under 35 USC 112, second paragraph in light of the amendment.

### ***Response to Arguments***

1. Applicant's arguments regarding claims **1, 15, and 36**, filed 10/05/2007, have been fully considered, but they are not persuasive.

Regarding claims **1, 15, and 36**, the applicant argues that Vinson et al. does not disclose collecting subscriber content-choice data from a plurality of service providers, and each

subscriber's content-choice data describing a type of a service provider that provides the content and a name of the service provider. The applicant further argues that Vinson et al. does not disclose receiving a request for the subscriber content-choice data, the request specifying at least one of the type of the service provider and the name of the service provider. The applicant still further argues that Vinson et al. does not disclose querying for the subscriber content-choice data associated with at least one of the type of the service provider and the name of the service provider. The examiner respectfully disagrees.

Vinson et al. discloses a consumer data acquisition, prediction, and query system that may monitor user behavior while a user experiences television, radio, Internet, or other content. Examples of such content can include television shows, radio shows, music, advertisements, news, weather, or other multimedia material (p. 6, paragraph 82 & Fig. 1). As users view, listen to, or otherwise experience content, user behavior may be monitored through a set-top box, personal computer, radio, portable music player, or other device (p. 6, paragraph 84). Other user information, such as billing information, geographical information, and demographic information is also collected and stored by the system (p. 6, paragraphs 84, 86). Head-end servers receiving monitoring information and periodically forward the information to a data center (p. 7, paragraphs 98-104). The data center provides a web-based Past Events Query System 200 that allows users to extract meaningful and directed information from the Data Center 130 (p. 6, paragraph 88 & Fig. 11). System subscribers may log onto the system to target content through a content delivery method. The subscriber selects one or more cable television, satellite television, Internet, or other service providers as part of the method (p. 22, paragraph 319 & Fig. 23). The examiner interprets the selectable service provider as representing a name of a service provider.

The subscriber can then target content to individually addressable set top boxes (STB's) based on the STB's monitored data (p. 22, paragraph 321). Since a service provider is first selected in order to select an individually addressable set top box associated with the service provider, the examiner notes that there must be a correlation between the set-top box and the service provider stored in the web-based server. As such, the examiner interprets this as "each subscriber's content-choice data describing a type of service provider that provides the content and a name of the service provider," "receiving a request for the subscriber content-choice data, the request specifying at least one of the type of the service provider and the name of the service provider," and "querying for the subscriber content-choice data associated with at least one of the type of the service provider and the name of the service provider," as currently claimed.

### *Claim Objections*

1. Claims 3, 13 are objected to because of the following informalities:

Referring to claim 3, the examiner notes that the phrase "the at least one subscriber" lacks antecedent basis. The examiner recommends that the phrase be changed to "at least one subscriber" and addresses the claim in the Office Action below as though the recommended changes have been made.

Referring to claim 13, the examiner believes applicant made a typographical error and intended the word "provides" to be "providers." The examiner recommends that the word be changed to "providers" and addresses the claim in the Office Action below as though the recommended changes have been made.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8, 10-22, 24-28, 31-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Vinson et al.

Referring to claims 1, 15, and 36, Vinson et al. discloses a method/system for receiving subscriber content-choice information, comprising:

- collecting subscriber content-choice data from a plurality of service providers, each service provider collecting the subscriber content-choice data from their respective subscribers (p. 7, paragraphs 94-104), each subscriber's content-choice data related to a subscriber's viewing preferences for content (p. 6, paragraph 82; p. 7, paragraph 94; & p. 8, paragraph 111), and each subscriber's content-choice data describing a type of a service provider that provides the content and a name of the service provider (the examiner notes that in targeting advertising content, an advertiser selects one or more cable television, satellite television, Internet, or other service providers. Service providers implement individually addressable STB's. Since an advertiser can target ads to a particular user of a particular service provider based on the monitored user

- data, the examiner notes that the monitored user data is associated with the service provider and thus describes the service provider)(p. 22, paragraphs 319, 320);
- storing the subscriber content-choice data in a database (p. 7, paragraphs 100-104 & Fig. 11);
  - receiving a request for the subscriber content-choice data, the request specifying at least one of the type of the service provider and the name of the service provider (p. 22, paragraphs 319, 320);
  - querying for the subscriber content-choice data associated with at least one of the type of the service provider and the name of the service provider (p. 6, paragraph 89 & p. 22, paragraph 321); and
  - responding to the request with the subscriber content-choice data (p. 22, paragraph 321).

NOTE: The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claims 2 and 16, Vinson et al. discloses the method/system of claims 1 and 15, respectively, further comprising assigning a classification to the subscriber's content-choice data (p. 21, paragraph 306).

Referring to claims 3 and 17, Vinson et al. discloses the method/system of claims 1 and 15, respectively, wherein the subscriber content-choice data comprises data relating to a television program received by at least one subscriber (p. 6, paragraphs 82, 83).

Referring to claims **4** and **18**, Vinson et al. discloses the method/system of claims 3 and 15, respectively, wherein the subscriber content-choice data comprises at least one of date information and time information related to the television program (p. 6, paragraph 83).

Referring to claims **5** and **19**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, wherein the subscriber content-choice data further comprises data relating to the subscriber (p. 6, paragraph 84).

Referring to claims **6** and **20**, Vinson et al. discloses the method/system of claims 5 and 15, respectively, wherein the data relating to the subscriber comprises a subscriber identifier (p. 21, paragraph 304).

Referring to claims **7** and **21**, Vinson et al. discloses the method/system of claims 5 and 15, respectively, wherein the data relating to the subscriber comprises demographic data (p. 8, paragraph 114).

Referring to claims **8** and **22**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, wherein the subscriber content-choice data further comprises data relating to a subscriber system (p. 7, paragraph 97).

Referring to claims **10** and **24**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, wherein the subscriber content-choice data comprises data relating to an advertisement received by the subscriber (p. 21, paragraph 306).

Referring to claims **11** and **25**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, wherein the subscriber content-choice data comprises data relating to a viewing pattern of the subscriber (p. 12, paragraph 171).



Referring to claims **12** and **26**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, wherein receiving the request for the subscriber content-choice data comprises receiving an electronic request form that is standardized for all the service providers (p. 6, paragraphs 89-91; p. 8, paragraph 105; & Figs. 26-35).

Referring to claims **13** and **27**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, further comprising periodically requesting that the service providers send their respective subscriber content-choice data for storage in the database (p. 7, paragraphs 99-102).

Referring to claims **14** and **28**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, further comprising sorting the collected subscriber content-choice data (p. 8, paragraphs 112, 113).

Referring to claim **31**, Vinson et al. discloses the system of claim 15, further comprising means for selecting the subscriber content-choice data based on geographic location (p. 6, paragraph 90).

Referring to claim **32**, Vinson et al. discloses the system of claim 15, further comprising means for selecting the subscriber content-choice data based on subscriber classification data (p. 6, paragraph 90).

Referring to claim **33**, Vinson et al. discloses the system of claim 15, further comprising means for selecting the subscriber content-choice data based on data relating to television programs viewed by a plurality of subscribers (p. 6, paragraph 90).

Referring to claim **34**, Vinson et al. discloses the system of claim 15, further comprising means for selecting the subscriber content-choice data based on data relating to advertisements viewed by a plurality of subscribers (p. 21, paragraph 304).

Referring to claim 35, Vinson et al. discloses the system of claim 15, further comprising means for selecting the subscriber content-choice data based on at least one of a viewing date and a geographic location (p. 22, paragraph 320).

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 9, 23, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson et al. in view of Eldering et al.

Referring to claims 9, 23, and 37, Vinson et al. discloses the method/system of claims 1, 15, and 36, respectively. Vinson et al. further discloses associating monitored user data with data describing service provider type, name, and geographical location (p. 6, paragraph 90 & p. 22, paragraphs 319, 320). Vinson et al. further discloses combining the monitored user data of multiple users and providing subscribers with access to the monitored data through a web-based system (p. 6, paragraph 89 & Figs. 26-35). Vinson et al. does not disclose that collecting the subscriber content-choice data comprises receiving an eXtensible Markup Language file having linear data describing the type of the service provider, the name of the service provider, and a location associated with the service provider. Eldering et al. discloses monitoring subscriber television viewing interaction and generating viewing characteristics therefrom. At least one type of subscriber profile from a subset of subscriber characteristics is generated. Groups are

formed by correlating at least one type of subscriber profile. Groups may correlate elements of a content delivery system, such as head-ends (see Abstract). Eldering et al. further discloses monitored viewing characteristics include network preference, genre preference, and geographical location (p. 2, paragraph 25 & p. 5, paragraph 84). Eldering et al. still further discloses aggregating portions of the monitored information to create a subscriber profile. The profile is stored in an XML format (p. 11, paragraph 134). The examiner notes that XML inherently stores data in a linear, line-by-line textual format. It would have been obvious to one of ordinary skill in the art to store the monitored user data of Vinson et al. in an XML format, such as that taught by Eldering et al. in order to use a standardized format to ensure that multiple data files can be combined and manipulated (Eldering et al. p. 11, paragraph 134).

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571-272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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MVH

  
**CHRIS KELLEY**  
SUPERVISORY PATENT EXAMINER  
ELECTRONIC BUSINESS CENTER 2600